

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

RICHARD DEWAYNE NELSON,

Plaintiff,

v.

VERONICA ALICEA GALVAN, et al,

Defendant.

CASE NO. 2:21-cv-00195-DGE

ORDER ADOPTING REPORT AND  
RECOMMENDATION AND  
DISMISSING PLAINTIFF'S  
COMPLAINT

On March 10, 2021, Plaintiff filed a civil rights action filed pursuant to 42 U.S.C. § 1983 alleging that he had been denied his right to a speedy trial, that an excessive bail was requested by the prosecutor and granted by the trial court, and that the certification for determination of probable cause contained perjured statements in violation of state law. Dkt. No. 4 at 5-12.

On the same day, this Court issued an order directing Plaintiff to show cause why this action should not be dismissed after concluding that plaintiff had not identified any viable cause of action in his complaint. Dkt. No. 5.

1 The Court explained that three of the four individuals named as defendants in his  
2 complaint were not subject to suit under § 1983 and that Plaintiff did not allege any violation of a  
3 federal constitutional right as to the remaining Defendant. *Id.* at 2-3.

4 The Court further explained in the Order to Show Cause that resolution of the claims  
5 asserted by Plaintiff in his complaint would necessarily result in this Court becoming involved in  
6 plaintiff's ongoing state court proceedings, and that federal courts will generally not intervene in  
7 a pending state court criminal proceeding absent extraordinary circumstances where the danger  
8 of irreparable harm is both great and immediate; Plaintiff was advised that his complaint did not  
9 reveal any extraordinary circumstances which would justify this Court's intervention in his state  
10 court criminal proceedings. *Id.* at 2.

11 On April 28, 2021, United States Magistrate Judge Mary Alice Theiler, finding that  
12 Plaintiff had not responded to the Order to Show Cause, issued a report and recommendation  
13 ("R&R") recommending that Plaintiff's complaint and this action be dismissed, without  
14 prejudice, pursuant to § 1915(e)(2)(B). Dkt. No. 7 at 3.

15 Plaintiff provided several responses to the Court's R&R, re-stating the claims in his  
16 initial complaint and informing the Court that he was found not guilty on an assault charge while  
17 still awaiting trial on a murder charge. Dkt. Nos. 8, 9, 10.

18 Plaintiff failed to object, in a timely manner, to the Court's order to show cause. More  
19 importantly, Plaintiff has not addressed this Court's conclusions concerning his failure to state a  
20 viable cause of action or the Court's concern about becoming involved in plaintiff's ongoing  
21 state court proceeding.


1 The Court, having reviewed Plaintiff's complaint, the Report and Recommendation of the  
2 Honorable Mary Alice Theiler, United States Magistrate Judge, any objections thereto, and the  
3 remaining record, hereby finds and ORDERS as follows:

4 (1) The Report and Recommendation is APPROVED and ADOPTED;

5 (2) Plaintiff's complaint (Dkt. No. 4) and this action are DISMISSED without prejudice,  
6 under 28 U.S.C. § 1915(e)(2)(B), for failure to state a viable claim for relief; and

7 (3) The Clerk is directed to send copies of this Order to plaintiff and to the Honorable  
8 Mary Alice Theiler.

9 Dated this 24th day of November, 2021.

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David G. Estudillo  
United States District Judge